IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 22.11.2006

Uttam Kumar and another

...Appellants

versus

Gurmeet Singh and others.

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.

Present: Mr.Sumeet Mahajan, Advocate &
Mr.Sham Lal, Advocate
for the appellants.
Mr.Arvind Kashyap, Advocate
for respondent No.2.
Ms.Vandana Malhotra, Advocate
for respondent No.3.

UMA NATH SINGH, J. (ORAL)

This FAO arises out of an award dated 5.5.2000 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Fatehgarh Sahib, in Claim Application No.32 of 22.7.1997, awarding a sum of Rs.57,600/-, in death case of a 42 years old Lineman said to have been working in the Communication Department.

The appellants are the widow mother and adopted son. Learned counsel for the appellants has a limited submission to make. He urged that in the obtaining circumstances, the quantum of compensation appears to be on lower side. According to learned counsel, the amount of dependency has been assessed at Rs.300/-, whereas the deceased was earning a salary of Rs.4,000/- per month. It appears from the award that the Tribunal has come to a finding that the dependency would come to Rs.2700/- after 1/3 deduction towards personal expenses. Further, the claimant, Uttam Kumar,

was being paid a pension of Rs.2400/-, which is to be deducted from the dependency and after such permissible deduction the dependency was assessed at Rs.300/- per month.

I do not find any infirmity as regards deduction is concerned. However, in view of the fact that the deceased was aged about 42 years at the time of his death, and he would have earned increments in his salary, as he had a long way to go in service, I deem it expedient, in the interest of justice, to enhance the compensation by Rs.12,000/-, as the claimants were not paid any amount separately towards funeral expenses and loss of estate.

I have also heard learned counsel for the owner in Cross Objection No.52-CII of 2002, wherein he urged that the driver of the offending vehicle was holding a valid driving licence inasmuch as, his licence had been issued by the Licencing Authority, Bharatpur, Assam, but the Local Commissioner appointed by the Insurance has submitted a verification report issued by the Licencing Authority, Bharatpur, Rajasthan.

Under the circumstances, it appears that the Insurance has not discharged its onus as is required of it in terms of the judgments of Hon'ble the Apex Court reported in (i) 2004(1) PLR 510 (National Insurance Company Limited versus Swaran Singh and others), and (ii) 2006(7) SCC 318 (Lal Chand versus Oriental Insurance Company Limited). As such, the finding on issue No.3, as regards the validity of D.L., is set aside.

Thus, the appeal and the cross objection are allowed as per the aforesaid terms and the compensation amount is enhanced by Rs.12,000/-, which shall carry an interest @ 7-1/2% per annum from the date of application and the liability fastened on the owner is shifted on to the Insurance Company.

22.11.2006 **(UMA NATH SINGH)**
pk **JUDGE**